

Res Ipsa Loquitur

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Two requirements:

1. Harm results from. . . ?
2. Defendant was. . . ?

Res Ipsa Loquitur

Two requirements:

1. Harm results from the kind of situation in which negligence can be inferred
2. Defendant was responsible for the instrument of harm

Byrne v. Boadle

&

McDougald v. Perry

Differences Across Jurisdictions

Res ipsa loquitur can be either:

an inference (e.g., New York), or

a presumption (e.g., California).

Why *Allow Res Ipsa Loquitur*?

1. Probabilistic rationale
2. *Asymmetry and fairness justification*

Ybarra v. Spangard

In-Class Exercise for Res Ipsa Loquitur

You are deciding a case as an appellate court judge.

Organize your notes according to the IRAC method:

- Issue
- Rule
- Application
- Conclusion